

AMENDED IN SENATE AUGUST 5, 1998

AMENDED IN SENATE JUNE 25, 1998

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AMENDED IN ASSEMBLY JANUARY 22, 1998

AMENDED IN ASSEMBLY JANUARY 6, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 668**

**Introduced by Assembly Members Aroner and Shelley  
(Principal coauthor: Assembly Member Villaraigosa)**

February 26, 1997

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An act to add Section 14132.97 to the Welfare and Institutions Code, relating to human services.

LEGISLATIVE COUNSEL'S DIGEST

AB 668, as amended, Aroner. In-home supportive services: personal care services funding.

Existing law provides for the In-Home Supportive Services (IHSS) program, under which, either through employment by the recipient, or by or through contract by the county, qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes. Counties are responsible for the administration of the IHSS program.

Existing law authorizes the provision of personal care services under the IHSS program and specifies that those personal care services provided to a recipient who is eligible

for those same services under the Medi-Cal program shall receive those services under the Medi-Cal program.

This bill would, subject to the receipt of any necessary federal waivers and the execution of any necessary amendments to the state medicaid plan, require the provision of waiver personal care services, as defined, under the Medi-Cal program to persons meeting specified requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of  
2 the following:

3 (a) Under the federal Omnibus Budget Reconciliation  
4 Act of 1981 (Public Law 97-35), states may apply for  
5 waiver under Section 1915(c) of the federal Social  
6 Security Act (42 U.S.C. Sec. 1396n(c)) to make  
7 individuals eligible for Supplemental Security Income  
8 (SSI) and medicaid benefits when medical, remedial, and  
9 social services provided in the home can be shown to be  
10 less costly than services provided in an institution.

11 (b) Whenever possible, medical, remedial, and social  
12 services should be provided in the least restrictive setting  
13 at the lowest cost to programs involved.

14 (c) To the extent possible, and consistent with client  
15 preference, necessary medical and remedial services in  
16 the home can be provided through personal care services  
17 beyond those currently available under Section 14132.95  
18 of the Welfare and Institutions Code.

19 (d) *It is the intent of the Legislature that these services*  
20 *supplement and not supplant any services the client is*  
21 *entitled to receive under Section 14132.95 of the Welfare*  
22 *and Institutions Code.*

23 SEC. 2. Section 14132.97 is added to the Welfare and  
24 Institutions Code, to read:

25 14132.97. (a) For purposes of this section, “waiver  
26 personal care services” means personal care services  
27 authorized by the department for persons who ~~qualify for~~

~~personal care services under either the nursing facility or the model nursing facility waiver, and that exceed in hours of service or scope of service, personal care services authorized under Section 14132.95. Waiver personal care services may supplement or replace services authorized under Article 7 (commencing with Section 12300) of Chapter 3.~~ *are eligible for either nursing or model nursing facility waiver services. Waiver personal care services shall be defined in these respective waivers, shall differ in scope from personal care services that may be authorized in Section 14132.95, and shall not replace any hours of services authorized or that may be authorized under Section 14132.95.*

(b) An individual may receive waiver personal care services if all of the following conditions are met:

(1) The individual has been approved by the department to receive services in accordance with a waiver approved under Section 1915(c) of the federal Social Security Act (42 U.S.C. Sec. 1396n(c)) for persons who would otherwise require care in a nursing facility.

(2) The individual has ~~doctors~~ *doctor's* orders that specify that he or she requires ~~less than 16 hours of nursing care daily~~ *waiver personal care services in order to remain in his or her own home.*

(3) The individual chooses, *either personally or through a substitute decisionmaker who is recognized under state law for purposes of giving consent for medical treatment,* to receive waiver personal care services, as well as medically necessary skilled nursing services, in order to remain in his or her own home.

(4) The waiver personal care services *and all other waiver services* for the individual do not result in costs that exceed the fiscal limit established under the waiver.

(c) The department shall notify the administrator of the in-home supportive services program in the county of residence of any individual who ~~is qualified to receive waiver personal care services pursuant to subdivision (b).~~ *meets all requirements of subdivision (b) and has been authorized by the department to receive waiver personal*

1 *care services.* The county of residence shall then do both  
2 of the following:

3 ~~(1) Approve services for the individual, based on the~~  
4 ~~determination of need and authorization for services~~  
5 ~~under Article 7 (commencing with Section 12300) of~~  
6 ~~Chapter 3 and subdivision (i) of Section 14132.95,~~  
7 ~~including approval for services to meet any unmet need~~  
8 ~~found in the assessment for services performed under~~  
9 ~~those provisions.~~

10 ~~(2) Notify the department of the hours of service for~~  
11 ~~which the individual has been approved by the county~~  
12 ~~pursuant to paragraph (1) and the hours of service for~~  
13 ~~which the individual has been approved pursuant to~~  
14 ~~Article 7 (commencing with Section 12300) of Chapter 3.~~

15 ~~(d) To the extent waiver personal care services~~  
16 ~~authorized under this section result in replacing hours of~~  
17 ~~protective supervision or other services authorized under~~  
18 ~~Article 7 (commencing with Section 12300) of Chapter 3~~  
19 ~~with hours of personal care services, the county shall be~~  
20 ~~responsible for the nonfederal share of costs at the same~~  
21 ~~rate required under Article 7 (commencing with Section~~  
22 ~~12300) of Chapter 3.~~

23 ~~(e) Except as specified in subdivision (c), to the extent~~  
24 ~~services obtained under this section result in waiver~~  
25 ~~personal care services beyond those personal care~~  
26 ~~services authorized pursuant to subdivision (i) of Section~~  
27 ~~14132.95, the county shall have no share of cost, and the~~  
28 ~~cost shall be covered by the department under the~~  
29 ~~provisions of the waivers.~~

30 ~~(f)–~~

31 *(1) Inform the department of the personal care*  
32 *services that the individual is authorized to receive under*  
33 *Section 14132.95 at the time he or she becomes eligible for*  
34 *wavier personal care services.*

35 *(2) Determine the individual's eligibility for personal*  
36 *care services under Section 14132.95 if he or she is not*  
37 *currently authorized to receive those services and if he or*  
38 *she has not been previously determined eligible for those*  
39 *services.*

1 (3) Authorize the individual for the quantity and  
2 scope of waiver personal care services that have been  
3 approved by the department.

4 (d) (1) Waiver personal care services approved by  
5 the department for individuals who meet the  
6 requirements of subdivision (b) may be provided in  
7 either of the following ways, or a combination of both:

8 (A) By a licensed and certified home health agency  
9 participating in the Medi-Cal program.

10 (B) By one or more providers of personal care services  
11 under Article 7 (commencing with Section 12300) of  
12 Chapter 3 and subdivision (d) of Section 14132.95, when  
13 the individual elects, in writing, to utilize these service  
14 providers.

15 (2) The department shall approve waiver personal  
16 care services for individuals who meet the requirements  
17 of subdivision (b) only when the department finds that  
18 the individual's receipt of waiver personal care services  
19 is necessary in order to enable the individual to be  
20 maintained safely in his or her own home and community.

21 (e) Waiver personal care services shall not count as  
22 alternative resources in a county's determination of the  
23 amount of services an individual may receive under  
24 Section 14132.95.

25 (f) Providers of waiver personal care services shall  
26 receive payment on a schedule and in a manner by which  
27 providers of personal care option services receive  
28 payment.

29 (g) Any administrative costs associated with  
30 implementing this section shall be considered  
31 administrative costs under the waiver.

32 (h) This section shall not be implemented until the  
33 department has obtained federal approval of any  
34 necessary amendments to the existing nursing facility and  
35 model nursing facility waivers and the state plan under  
36 Title 19 of the federal Social Security Act (42 U.S.C. Sec.  
37 1396 et seq.). Any amendments to the existing nursing  
38 facility and model nursing facility waivers and the state  
39 plan which are deemed to be necessary by the director

1 shall be submitted to the federal Health Care Financing  
2 Administration by April 1, 1999.  
3 ~~(g)~~  
4 (i) The department shall implement this section only  
5 to the extent that its implementation results in fiscal  
6 neutrality, as required under the terms of the waivers.

